

### **REMARKS**

Claims 1-5, 9-16 are pending in the Application and stand rejected. Claims 6, 7, 17-27 are cancelled without prejudice. Reconsideration and continued examination are respectfully requested.

#### **Rejections Under 35 U.S.C. §112, Second Paragraph**

Claims 6, 19, and 27 were rejected under 35 U.S.C. § 112. Assignee has cancelled claims 6, 19, and 27.

#### **Rejections Under 35 U.S.C. §103(a)**

Claim 1 is amended to recite, among other limitations, “wherein selecting audio frequency components comprises filtering audio frequency components having a frequency less than a predetermined frequency”.

Claim 8, now cancelled, originally recited, “transmitting components of the audio signal having a frequency less than a predetermined frequency; and selecting a number of transmitted audio frequency components for analysis”, and was rejected as obvious from Saunders, in view of Tzanetakis, Benyyassine, and Pohlmann.

Examiner indicated that Saunders does not specifically teach transmitting components of the audio signal having a frequency less than a predetermined frequency. In the same field of audio analysis, Benyassine teaches transmitting an audio signal using encoder 112 of figure 1 that samples at a rate of 8000Hz ... it would have been obvious to combine the sampling of audio for transmitting of Benyassine with the classification system of Saunders and Tzanetakis in order to allow the transmissions of digital signals”.

Assignee respectfully traverses that it would be obvious to one of ordinary skill in the art to “combine the sampling of audio for transmitting of Benyassine with the classification system of Saunders and Tzanetakis in order to allow the transmissions of digital signals”, because, according to Examiner, Tzanetakis already teaches MPEG

audio files. The MPEG audio files already allow for transmitting of digital signals. Thus, even without Benyassine, Saunders and Tzanetakis allow the transmissions of digital signals”.

### **Final Matters**

The Office Action makes various statements regarding the remaining claims and the references that are now moot in view of the previously presented amendments and/or arguments. Thus, the Applicants will not address all of such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

Applicants reserve the right to argue additional reasons supporting the allowability of the remaining claims should the need arise in the future.

Appln. No. 10/695,125  
Resp. to Office Action dated October 3, 2008  
Resp. filed February 3, 2009

### **CONCLUSION**

Applicant respectfully submits that claims 1-6 and 8-26 are in condition for allowance, and requests that the application be passed to issue.

Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the telephone number listed below.

Please charge any required fees not paid herewith or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Date: February 3, 2009

Respectfully submitted,

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